

ORDINANCE No. _____

**AN ORDINANCE OF THE COCONINO COUNTY BOARD OF SUPERVISORS
PERMITTING, REGULATING, AND ENFORCING VACATION RENTAL AND SHORT-
TERM RENTAL USES IN THE UNINCORPORATED AREAS OF COCONINO COUNTY**

1.1 Vacation or Short-Term Rentals

1.1.A. Purpose

1. The purpose of this Ordinance is to protect the public health, safety, and welfare of owners and users of vacation and short-term rental properties in the unincorporated area of Coconino County, and to protect the residential character of neighborhoods and surroundings that are adjacent to vacation and short-term rental use. It is unlawful to rent, or to offer to rent, a Vacation or Short-Term Rental property without first complying with the provisions of this Ordinance.

1.1.B. Authority and Applicability. Limitations on Use.

1. Authority.

This Ordinance is adopted pursuant to Arizona Revised Statutes § 11-269.17 and shall govern the annual permitting and regulation of Vacation and Short-Term Rental uses within the unincorporated areas of Coconino County.

2. Applicability.

The provisions of this Ordinance shall apply to all Vacation and Short-Term Rental use in the County's area of jurisdiction that exists both on, and after, the effective date of this Ordinance.

3. All applicable provisions of the Coconino County Zoning Ordinance, Building Codes, the Public Health and Sanitation Codes and Regulations, the Environmental Codes and Regulations, and any Traffic Safety and Control shall apply to the use of residential property for short term and vacation rental activities.

4. Limitation on Use. Residential Purposes.

Notwithstanding any other regulation herein, the use of property for vacation and short-term rental activities shall conform in all respects to the purposes of the underlying land use zone where the property is located. Vacation and short-term rental uses upon land zoned for Residential "Single Family Dwelling" purposes, as

delineated in the adopted Land Use Map for Coconino County, shall conform to the definition of “Family” as further described in Chapter 6 of the Coconino County Zoning Ordinance, and as set forth below (Definitions).

5. Limitation of Use. Nonresidential Purposes.

Vacation or short-term rental property shall not be used for non-residential purposes, including but not limited to special events, multi-family transient stays, or any land use or group gathering that would otherwise require a county special or temporary use permit, a county health code license, or any other regulatory license or permit required pursuant to a county ordinance or state law or rule.

6. Judicial Enforcement of Ordinance Requirements.

Notwithstanding any other provision of this Ordinance to the contrary, the Director may seek enforcement of this Ordinance by means of direct filing in the superior court for restraining orders and injunctive relief, with fines, fees, and penalties if applicable, as it pertains to:

A. Any attempted or completed felony act, arising from the occupancy or use of a vacation rental or short-term rental, that results in a death, or actual or attempted serious physical injury.

B. Any other violation of governing county or state health and safety ordinances, rules and regulations. All governing county and state health and safety ordinances, rules and regulations are incorporated herein by reference.

A violation of any governing county or state health and safety regulation at the location of the vacation or short-term rental is a violation of this Ordinance. Restraining orders and injunctive relief sought under enforcement of county or state health and safety regulations may incorporate restraining orders and injunctive relief under this Ordinance.

1.1.C Definitions.

1. “Director” means the Director of the Coconino County Department of Community Development, or his/her authorized Designee.

2. “Dwelling, Single Family” means a detached Dwelling Unit used by one family.
3. “Dwelling Unit” means a structure with one or more rooms and a single kitchen or cooking accommodation and a bathroom for living and sleeping purposes. For purposes of this Ordinance, a dwelling Structure means a Code-compliant building constructed or erected for dwelling purposes, inclusive of mobile homes, but excluding motor vehicles.
4. “Family” means any number of individuals related by blood, marriage, affinity or legal adoption/guardianship, or a group of not more than five (5) unrelated persons living together as a single housekeeping unit in a single Dwelling Unit sharing common cooking facilities.
5. “Prima Facie” as used herein to establish a Verified Violation, means evidence that is credible and sufficient on its face to establish a fact, or facts, that when taken together, lead to a reasonable inference of breach and/or civil responsibility. Prima facie evidence is good and sufficient on its face unless rebutted or contradicted by evidence to the contrary. Prima Facie evidence can include, but is not limited to, listings on Transient Online Marketplaces; cellphone photo, audio and video provided by investigators and/or witnesses; 911 calls; body-worn camera audio/video; written reports of law enforcement; written complaints or other documentation; and information from any credible source.
6. “Registration Regulation” means the act, including all preparatory steps necessary, to complete and to maintain a permit for the lawful use of Vacation and Short-Term Rental activities.
7. “Transient” means any person who either at the person's own expense or at the expense of another obtains lodging space or the use of lodging space on a daily or weekly basis, or on any other basis for less than thirty (30) consecutive days.
8. “Verified Violation” means:
 - A. For purposes of a Registration regulation, a Verified Violation means a sworn affidavit of the Director, or his/her Designee, attesting that the Director or Designee has thoroughly investigated the facts and circumstances surrounding the following alleged violations, has issued a citation, has allowed a sufficient amount

to time to cure, and has conclusively determined, by a preponderance of the evidence, upon the best of his/her knowledge and belief:

i. A violation of the duty to properly register a Vacation or Short-Term Rental unit or units, including failure to timely provide all the information necessary to register the unit(s).

ii. A violation of the duty to annually renew the registration of a Vacation or Short-Term Rental unit or units.

iii. A violation of the duty to provide proper notice to adjacent properties entitled to such notice that the property, or unit(s) upon the property, are committed to Vacation or Short-Term Rental.

iv. A violation of the duty to provide notice to the Director or his/her Designee, of a transfer of a Vacation or Short-Term Rental unit or units to a new owner or responsible party.

v. A violation of the duty to provide proof of compliance with ARS §42-5005, regarding acquisition and continuance of a Transaction Privilege Tax license from the Arizona Department of Revenue.

vi. A violation of the duty to openly display, in the Vacation or Short-Term Rental unit(s), the county license issued pursuant to this Ordinance and the Transaction Privilege Tax license issued by the State of Arizona.

B. The Director or his/her designee may rely upon Prima Facie evidence when considering and deciding Registration violations, and when investigating and issuing civil citations.

C. For all other purposes, a "Verified Violation" means a finding and determination of civil responsibility by an administrative hearing officer, inclusive but not limited to, Orders of Suspension.

9. "Vacation or Short-Term Rental":

A. Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium or cooperative that is also a transient public lodging establishment or owner-

occupied residential home offered for transient use if the accommodations are not classified for property taxation under A.R.S. § 42-12001.

B. Does not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

1.1.D. Site Management Requirements

1. **Access.** The access to the Vacation or Short-Term Rental shall be adequately maintained and remain clear of obstructions to ensure unimpeded passage of emergency vehicles and other traffic.

2. **Prohibited Uses.** In addition to those specific instances addressed elsewhere in this Ordinance [See: §1.1. B(4) & §1.1. B(5)], Vacation or Short-Term Rentals shall not be used for the purposes of housing sex offenders, operating or maintaining a sober living home, for felonious criminal activity on-site, or for the hosting or operation of any nude, pornographic or adult-oriented business enterprise. A violation of the limitations established by §1.1.B(4) and §1.1.B(5) of this Ordinance may be cited, and proceeded upon, as with any other request for an Order of Suspension. [Citation §1.1.G; Suspension, §1.1.I(D)].

3. **Site Response Requirements.** The owner or owner's designee, identified in the registration requirements of §1.1E herein, has an affirmative duty to respond to complaints and/or emergencies reported by the Director and/or by law enforcement authorities within a reasonable time of the reported incident. Incident reports shall be made to the owner or owner's designee by all available methods (for example: email, phone, text, mail) indicated in the property Registration form, §1.1E. Notification by electronic means is sufficient when delivery is sent.

1.1.E. Initial Registration and Annual Permit Renewal Requirements

1. It is unlawful to offer for rent, or to rent, a Short-Term Rental unit without the owner having first registered the unit and obtained a license issued under this Ordinance. Each unit of Short-Term Rental requires a separate registration and license.

2. The owner of a Vacation or Short-Term Rental shall register the property annually through the Community Development Department and must possess an annual permit prior to operating the Vacation or Short-Term Rental.

3. The Vacation or Short-Term Rental Permit is personal to the owner and may not be transferred to another person or another property without prior notice of transfer to the County Department of Community Development. Permits issued pursuant to this Ordinance shall not run with the land.

4. *Using a form provided by the Director*, the following information shall be submitted when first registering for, and when applying for an annual renewal of, a Vacation or Short-Term Rental:

- A. Name, address, phone number and email address for the owner or owner's designee.
- B. Address of the Vacation or Short-Term Rental.
- C. Proof of compliance with ARS § 42-5005, Transaction Privilege Tax.
- D. Proof of liability insurance coverage in the aggregate of at least \$500,000 for the Vacation or Short-Term Rental property.
- E. Contact information, including phone and email address, for the owner or the owner's designee who is responsible for responding to complaints or emergencies.
- F. Acknowledgement to comply with all applicable laws and regulations.
- G. An annual permit fee of \$250.

I. An attestation by the owner that the subject property's use shall comply at all times with §1.1(B)(4), Residential Purposes, and shall not be used at any time for Nonresidential Purposes §1.1B(5).

5. *Using a form provided by the Director*, the owner or owner's designee shall demonstrate notification to all single-family properties adjacent to, directly and diagonally across the street from the property, that the property will be offered for Vacation or Short-Term Rental. Notice shall be deemed sufficient in a multi-family residential building if given to residents on the same building floor.

6. *Using a form provided by the Director*, the owner of a Vacation or Short-Term Rental is required to provide the contact information for the owner or the owner's designee who is responsible for responding to complaints or emergencies in a timely manner, in person if required by public safety personnel, or otherwise by phone or by email, at any time of day. The owner or owner's designee is required to notify the Director whenever this contact information changes.

7. The owner or owner's designee is required to amend the information provided in the Applicant's registration form within ten (10) days if the contact information previously provided changes.

8. The owner or owner's designee of a Vacation or Short-Term Rental is required to display the Vacation or Short-Term Rental Permit number on each advertisement for reservation and for booking.

1.1.F. Registration of Vacation or Short-Term Rental Activity.

1. Upon receipt of all information required by Section 1.1.E of this Ordinance, the Director shall issue or deny the registration permit within seven (7) business days. Permit applications may be denied if:

A. The information required in Section 1.1.E. is incomplete, or the Director determines that false information is provided.

B. The annual permit fee required in Section 1.1.E. is not paid to the County Department of Community Development.

C. An Order of Suspension of the Vacation or Short-Term Rental Permit for the same property exists. If a Vacation or Short-Term Rental Permit is suspended, a new permit for the same owner or owner's designee at the same location may not be issued for a period of at least one year from the date of suspension.

D. The owner or owner's designee of a Vacation or Short-Term Rental is a registered sex offender or has been convicted of any defendant-act that results in death or serious physical injury, or any felony use of a deadly weapon within the past five years.

1.1.G. Citations

1. **Procedure.** At the direction of the Director, Department staff shall administer and enforce this Ordinance.
 - A. Staff may initiate their own investigation into alleged violations of this Ordinance, and may rely upon Prima Facie evidence when drawing reasonable conclusions.
 - B. Representations or advertisements, including but not limited to online listings on an online lodging marketplace, that reference the property, house or Dwelling Unit located within Coconino County as available for transient lodging is prima facie evidence that an owner is offering to rent or is operating a Short-Term Rental. Staff may presumptively rely upon prima facie evidence to establish probable cause when investigating violations of this Ordinance.
 - C. As the circumstance requires, Staff shall:
 - i. Receive and investigate allegations of violations of this Ordinance, and may rely upon Prima Facie evidence when drawing reasonable conclusions.
 - ii. Make necessary inspections to secure compliance with the provisions of this Ordinance.
 - iii. Make investigations in connection with any matter referred to in this Ordinance and render written reports thereof when requested by the Board of Supervisors, or when the interests of Coconino County so require.
 - iv. Issue such citations as may be necessary for the purpose of enforcing compliance with the provisions of this Ordinance.
 - v. Keep comprehensive records of all alleged violations of this Ordinance, including notes as to the condition and uses of property in connection to alleged violations of this Ordinance. Community Development staff shall further retain on file copies of all records for such times as may be required by law.
 - vi. Receive reports and documentation from other County Departments as evidence in determining whether a permit holder is in violation of this Ordinance.
 - D. Upon determination by the Director or the Director's designee that an unregistered owner or a registered permit holder is in violation of this Ordinance, The Director/Designee may issue a citation to the unregistered owner or the

registered permit holder or their designee. Staff shall endeavor to complete notification of the citation within seven (7) business days of issuance. If multiple violations arise out of the same response to an incident at a Vacation or Short-Term Rental, the violations are considered one violation for the purpose of imposing a fine.

F. The citation shall include:

- i. The nature of the violation(s), including the number of days of the violation(s).
- ii. The section(s) of this Ordinance which has/have been violated.
- iii. The applicable fine(s) pursuant to Section 1.1.H. of this Ordinance.
- iv. The due date for the permit holder to pay the fine, which shall be thirty (30) calendar days from the date of issuance of the citation.

G. Service of citations shall be sent electronically to the owner, or the owner's representative, at the electronic address indicated on the registration form. Service of citations upon unregistered owners for Registration Violations shall be deemed complete on the tenth (10th) business day after issuance of the citation. In the event that Staff is unable, for any reason, to complete the notification process, or the owner/permit holder evades contact, Staff shall execute an Affidavit testifying to their best professional efforts to make service complete.

Alternative personal service of the citation to the permit holder or the permit holder's designee may be made by staff or by any person authorized to perform personal service by the Arizona rules of civil procedure. Service of the citation to the permit holder may also be made by any form of mail requiring a signed and returned receipt. For citations delivered by electronic means, service is complete upon the date of issuance of the citation. In all other circumstances service is deemed complete on the tenth (10th) day after issuance of the citation.

H. In the instance of an alleged Registration violation the owner or designee shall have thirty (30) days from the issuance date of the citation to remedy the violation, after which the Director may: (a) dismiss the citation; or (b) conclusively verify the violation.

I. Failure to remedy registration violations above are conclusive upon the Director's final determination and constitute a Verified Violation which is not eligible for further administrative hearings or appeals.

1.1.H. Fines

1. Upon the finding of a Verified Violation, the following fines shall apply:
 - i. Up to \$500 or up to an amount equal to one night's rent for the Vacation or Short-Term Rental, whichever is greater for the first violation.
 - ii. Up to \$1,000 or up to an amount equal to two night's rent for the Vacation or Short-Term Rental, whichever is greater for the second violation.
 - iii. Up to \$3,500 or up to an amount equal to three night's rent for the Vacation or Short-Term Rental, whichever is greater for the third and any subsequent violation.
2. Fines for failure to provide contact information. If the owner of a Vacation or Short-Term Rental fails to provide the Director with contact information as required by this Ordinance, in addition to any other fine pursuant to this Ordinance, the Director may impose a civil penalty of:
 - i. Up to \$1,000 for every thirty days the owner fails to provide the required contact information.
3. Fines for failure to Register. If the owner of a Vacation or Short-Term Rental fails to apply for a Vacation or Short-Term Rental Permit or fails to apply for annual renewal of the Permit as required by this Ordinance, in addition to any other fine imposed pursuant to this Ordinance, after issuing a citation and providing thirty (30) days notice of the registration and annual renewal requirement, the Director may impose a civil penalty of:
 - i. \$1,000; and an additional \$1,000 for every thirty (30) days the owner fails to apply for, or to renew, a permit.
4. Payment of fines. The amount of the fine that appears on the citation shall be paid to the Coconino County Community Development Department on or before the due date that appears on the citation.

1.1.I. Suspension of a Vacation or Short-Term Rental Permit

1. The Director or his/her Designee may initiate administrative proceedings to include a hearing before a Hearing Officer to suspend an existing Vacation or Short-Term Rental Permit for up to twelve months for:

A. Three verified violations within a twelve-month period, not including a verified violation for failure to provide contact information or failure to register.

B. One verified violation for:

i. An owner or owner's designee knowingly or intentionally allowing the use of a Vacation or Short-Term Rental for a special event that would otherwise require a Temporary Use Permit for a retail, restaurant, banquet space, or other similar prohibited use.

C. If any of the following occurs:

i. An owner or owner's designee knowingly or intentionally houses a sex offender, allows offenses related to adult-oriented businesses, sexual offenses or prostitution; or operates or maintains a sober living home at the Vacation or Short-Term Rental.

ii. A felony offense is committed at or in the vicinity of a Vacation or Short-Term Rental by the Vacation or Short-Term Rental owner or owner's designee.

iii. A serious physical injury or wrongful death occurs at or related to a Vacation or Short-Term Rental use resulting from the knowing, intentional, or reckless conduct of the Vacation or Short-Term Rental owner or owner's designee.

D. Any other violation of governing county or state health and safety ordinances, rules and regulations, inclusive of the allegation that the Vacation or Short-Term Rental owner or owner's designee has permitted or allowed for occupancy that exceeds the limitations of Residential Single Family Dwelling purposes specified in Section 1.1.B(4) of this Ordinance; and inclusive of the Allegation that the Vacation or Short-Term Rental owner or owner's designee has permitted or allowed the property to be utilized for Nonresidential purposes specified in Section 1.1.B(5) of this Ordinance.

2. Notice. Once the hearing has been scheduled by the Hearing Officer, personal service to the permit holder of the Notice to Appear and the Notice of Intent to Suspend may be made by staff or by any person authorized to perform

personal service by the Arizona rules of civil procedure. Personal service shall be completed at least fifteen (15) calendar days before the scheduled hearing. If the Notice to Appear and the Notice of Intent to Suspend is not personally served, the notices may be served by any form of mail requiring a signed and returned receipt provided that notice by means other than personal service must be completed at least thirty (30) days before the hearing.

3. At the hearing, Department staff shall present evidence that the criteria for suspension as found in this Ordinance has been met. The permit holder, or his attorney shall have an opportunity to present evidence. The county attorney may represent and present evidence for the Community Development Department.

4. At the conclusion of the hearing, the Hearing Officer shall determine whether the criteria to suspend the permit has been met. Within ten (10) days of the conclusion of the hearing, the Hearing Officer shall issue a Written Decision to the permit holder and the Director or his/her designee and shall issue an Order of Suspension for up to twelve (12) months, if applicable. Issuance of an Order of Suspension constitutes a Verified Violation and a final adjudication for purposes of this Ordinance.

5. Appeal of Order of Suspension. An Order of Suspension may be appealed pursuant to § 12-901 of the Arizona Revised Statutes.

6. Effective Date of Order of Suspension. An Order of Suspension shall be effective immediately upon issuance of the Order unless a stay of the Order is granted by judicial authority.